

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Serial No.: 76/267,997
Filed: June 5, 2001
Published: August 20, 2002
Applicant: PureTech Waters of America, Inc.
Mark: VITAL H₂O and Design
Goods: Bottled drinking water
International Class: 32

12-02-2002
U.S. Patent & TMO/TM Mail Rcpt Dt. #77

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NESTLE WATERS
NORTH AMERICA INC., :
Opposer, :
v. :
PURETECH WATERS :
OF AMERICA, INC., :
Applicant. :
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Opposition No. 91153280

BOX TTAB NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

In response to the Notice of Opposition ("the Notice") issued by the Board on October 30, 2002, the Applicant, PureTech Waters of America, Inc., answers the Opposition identified above as follows:

1. The Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 and based thereon, leaves the Opposer to its proof.
2. In answer to the allegations of paragraph 2, the Applicant admits that it is a Delaware corporation. However, the Applicant denies having a place of business at 115 Glastonbury Boulevard, Glastonbury, Connecticut 06033.
3. The Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 and based thereon, leaves the Opposer to its proof.
4. The Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 4 and based thereon, leaves the Opposer to its proof.
5. In answer to the allegations of paragraph 5, the Applicant admits that the trademark VITTEL has been registered in the United States Patent and Trademark Office under Registration No. 955,268. The Applicant further admits that the word VITTEL is part of the registered mark in Registration Nos. 2,339,773 and 2,436,265. The Applicant lacks sufficient knowledge to form a belief as to the remainder of the allegations and therefore leaves the Opposer to its proof.
6. The Applicant denies the allegations of paragraph 6 of the Notice.
7. The Applicant denies the allegations of paragraph 7 of the Notice.
8. The Applicant admits the allegations of paragraph 8 of the Notice.

9. The Applicant denies the allegations of paragraph 9 of the Notice.

10. The Applicant denies the allegations of paragraph 10 of the Notice.

Affirmative Defenses

First Affirmative Defense

VITTEL is primarily geographically descriptive and is, therefore, not protectable as a trademark.

WHEREFORE, the Applicant requests:

1. This opposition proceeding be dismissed and that its registration issue forthwith.

No fee is believed due with the filing of this document. However, if a fee is found to be due, please charge deposit account No. 50-0447.

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I hereby certify that this correspondence is being deposited with the U.S. Postal Service Express Mail Post Office to Addressee service in an envelope addressed to Box TTAB No Fee, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 on December 2, 2002.

Sandy Gregoire
Name: *SANDY Gregoire*

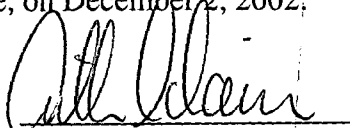
Respectfully submitted,

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Attorneys for Applicant,
PureTech Waters of America, Inc.

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION was served by mailing a copy to Susan Progoft, Esq., Fish & Neave, 1251 Avenue of the Americas, New York, New York 10020, Attorneys for Opposer, by first class mail, with sufficient postage, on December 2, 2002.

A handwritten signature in cursive script, appearing to read 'Arthur G. Schaier', written over a horizontal line.

Arthur G. Schaier